

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RUBEN HERNANDEZ,

Petitioner,

v.

Case No. 06-C-1281

UNITED STATES OF AMERICA,

Defendant.

ORDER DENYING CERTIFICATE OF APPEALABILITY

Petitioner Ruben Hernandez appeals my decision denying his § 2255 motion to vacate and seeks a certificate of appealability, which is required before an appeal is allowed. 28 U.S.C. § 2253(c)(1)(B). A certificate of appealability may issue only “if the applicant has made a substantial showing of the denial of a constitutional right,” 28 U.S.C. § 2253(c)(2), which means that the outcome of the proceedings must have at least been debatable. *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003).

Petitioner’s § 2255 motion (and his appeal) are based on a flawed argument that the federal government lacked jurisdiction over his crime because the crime occurred solely within the State of Wisconsin. I do not believe reasonable jurists could debate the denial of his petition on that basis, and the request for a certificate of appealability is therefore **DENIED**.

SO ORDERED this 13th day of March, 2007.

s/ William C. Griesbach
William C. Griesbach
United States District Judge